

AMENDED IN ASSEMBLY JUNE 25, 2009

AMENDED IN ASSEMBLY JUNE 16, 2009

AMENDED IN SENATE APRIL 28, 2009

SENATE BILL

No. 138

Introduced by Senator Liu

February 11, 2009

An act to amend Section 7287 of the Revenue and Taxation Code, relating to local taxation.

LEGISLATIVE COUNSEL'S DIGEST

SB 138, as amended, Liu. Local taxes: graffiti.

Existing law authorizes a city or county, or city and county to levy a tax, as provided, on the sale at retail within its jurisdiction of aerosol paint containers, felt tip markers, as specified, and marking substances or instruments at the rate of no more than \$0.10 per aerosol paint container or container of other marking substance, and no more than \$0.05 per felt tip marker *meeting specified requirements* or other marking instrument. Existing law requires the State Board of Equalization to enforce and administer these provisions.

This bill would ~~raise~~ *increase* the amount of the tax authorized to be levied under these provisions from \$0.10 to \$0.25 per aerosol *paint* container ~~or container of other marking substance, and from \$0.05 to \$0.25 per other marking instrument~~, *would revise the definition of an aerosol paint container*, and would delete the authorization for the levy of a tax for *containers of other marking instruments, felt tip markers meeting specified requirements, and other marking substances*. *The bill would also require any jurisdiction implementing the tax to provide retailers of aerosol paint containers the option to store or display the*

products in an area continuously observable by employees, as specified, or in an area not accessible to the public without employee assistance.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 7287 of the Revenue and Taxation Code
2 is amended to read:

3 7287. (a) The legislative body of any city or county, or city
4 and county, may levy a tax by an ordinance approved by two-thirds
5 of the electors voting on the measure, in addition to any other tax
6 authorized by this division, on the privilege of selling at retail
7 within its jurisdiction aerosol paint containers, ~~containers of any~~
8 ~~other marking substance, or any other marking instruments,~~ at the
9 rate of no more than twenty-five cents (\$0.25) per aerosol paint
10 container, ~~per container of other marking substance, or per other~~
11 ~~marking instrument.~~

12 (b) For purposes of this chapter, “aerosol paint container” means
13 ~~any aerosol container, regardless of the material from which it is~~
14 ~~made, which is adapted or made for the purpose of spraying paint~~
15 ~~capable of defacing property. a pressurized coating product~~
16 ~~containing pigments and resins that dispenses product ingredients~~
17 ~~by means of a propellant, and is packaged in a disposable can for~~
18 ~~hand-held application, or for use in specialized equipment for~~
19 ~~ground traffic or ground marking applications. “Aerosol paint~~
20 ~~container” does not include aerosol lubricants, mold releases,~~
21 ~~automotive underbody coatings, electrical coatings, cleaners, belt~~
22 ~~dressings, antistatic sprays, layout fluids and removers, adhesives,~~
23 ~~maskants, rust converters, dyes, ink, leather preservatives, and~~
24 ~~cleaners.~~

25 ~~(c) For purposes of this chapter, “marking substance” and~~
26 ~~“marking instrument” means any substance or instrument, other~~
27 ~~than aerosol paint containers, which could be used to draw, spray,~~
28 ~~paint, or mark, including, but not limited to, shoe polish applicators.~~

29 ~~(d)~~

30 (c) The tax authorized by this chapter shall not be considered
31 for purposes of the combined rate limit established by Section
32 7251.1.

1 *(d) Any jurisdiction implementing the tax authorized by this*
2 *chapter shall provide retailers of aerosol paint containers the*
3 *option to store or display such products in an area continuously*
4 *observable, through direct visual observation or surveillance*
5 *equipment, by employees of the retail establishment during the*
6 *regular course of business, or in an area not accessible to the*
7 *public without employee assistance.*

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